

Remarks

Claims 1-8 are presently pending. Claims 1-8 have been rejected.

The Examiner has rejected claims 1-8 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. US 6,626,799 B2 to Watterson et al. ("Watterson"). The Examiner asserts that Watterson discloses an exercise device having a control panel incorporating a CD player and a radio. The Examiner contends that the claimed levers and buttons are all obvious variants of a CD player and/or a radio, and are within the scope of the control panel with CD player and radio taught by Watterson.

This rejection is respectfully but strenuously traversed for the reasons set forth in detail below.

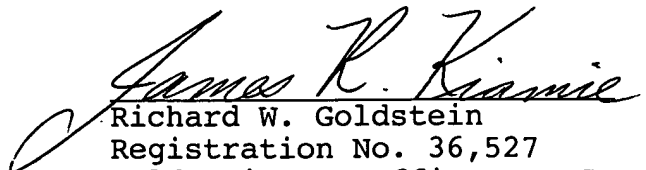
In general, three basic criteria must be satisfied in order to establish a prima facie case of obviousness (M.P.E.P. § 706.02(j)). First, the reference or combination of references must teach or suggest all of the claim limitations. Second, there must be a reasonable expectation of success. Third, there must be some suggestion or motivation, either in the references or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings.

The rejection fails to satisfy the third criterion of a prima facie showing of obviousness. The teachings of Watterson do not suggest the control panel of claim 1. Initially, it is noted that the Examiner provides no basis for the contention that all of the structural limitations of the control panel recited in claim 1 would have been obvious to a skilled artisan from the disclosures of Watterson. The system of Watterson and the present invention have differing objectives and functions. It is clear from the entirety of its description that Watterson relates to equipping exercise devices with means of conveying to users a wide variety of motivational programming. Watterson thus focuses on methods of communicating specific messages to exercise enthusiasts in order to improve their performance. All of the components taught by Watterson, including the CD player and radio to which the Examiner refers, must be evaluated in this context. The claimed control panel, on the other hand, is capable of playing music in order to engage and entertain exercise machine users. Thus, unlike the radio and CD player described in Watterson, the audio equipment of claim 1 is not limited to serving as devices that merely play back pre-recorded programming. Consequently, claim 1 is patentable over the cited reference. Claims 2-8 depend directly or indirectly from claim 1 and therefore contain all of its limitations.

Reconsideration and withdrawal of the rejection are respectfully requested.

In view of the foregoing remarks, reconsideration and allowance of the pending claims are respectfully solicited. Please remove the rejection of claims 1-8 under 35 U.S.C. § 103(a) and enter the allowance thereof. The Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted, *Reg. No. 53,120*

 *for*
Richard W. Goldstein
Registration No. 36,527
Goldstein Law Offices, P.C.
Attorneys for Applicant
2071 Clove Road
Staten Island, NY 10304
(718) 727-9780

RWG/JRK/jrk